

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES ALAN BUSH,

Plaintiff,

No. C 08-1354 PJH

v.

**ORDER**

SUNNYVALE DEPARTMENT OF  
PUBLIC SAFETY, et al.,

Defendants.

On March 10, 2008, plaintiff James Alan Bush filed the complaint in the above-entitled action, against more than 40 defendants. Plaintiff also requested leave to proceed in forma pauperis ("IFP"). After the court denied the IFP request, plaintiff requested leave to appeal the denial. On June 27, 2008, the court granted that request. On February 19, 2009, plaintiff filed another request for leave to proceed IFP. On April 14, 2009, the court denied plaintiff's renewed request to proceed IFP, and instructed plaintiff to pay the filing fee within 30 days.

On May 8, 2009, plaintiff filed a notice of appeal of the June 20, 2008 order denying leave to proceed IFP. The Court of Appeals requested payment of the filing fee. Plaintiff filed a motion with this court for leave to proceed IFP on appeal. On May 29, 2009, the court denied that request, finding that plaintiff's multiple requests to proceed IFP were frivolous or not made in good faith. On July 7, 2009, plaintiff requested additional time to pay the filing fee in this court. On July 16, 2009, the court granted plaintiff an additional 30 days to pay the filing fee.

1 On September 15, 2009, the Court of Appeals denied plaintiff's request to proceed  
2 IFP on appeal, and ordered plaintiff to pay the filing fee within 21 days. Plaintiff failed to  
3 pay the filing fee, and on October 22, 2009, the Court of Appeals dismissed the appeal for  
4 failure to prosecute. On February 16, 2010, plaintiff paid the filing fee in this court.

5 On September 13, 2010, Judge Fogel, to whom the case was then assigned, issued  
6 an order to show cause why the case should not be dismissed for failure to prosecute,  
7 based on plaintiff's failure to effect service of process on defendants. On October 5, 2010,  
8 plaintiff requested an extension of time to serve the summons on all defendants. On  
9 October 12, 2010, the court granted an extension, setting a December 14, 2010 deadline  
10 for effecting service of process on all defendants. Plaintiff failed to comply with that  
11 deadline. The case was reassigned to the undersigned on September 26, 2011.

12 This case has now been pending more than three and a half years, and plaintiff has  
13 repeatedly failed to meet court-imposed deadlines. In addition, to date, plaintiff has filed no  
14 proof of service showing service of process on any defendant. Accordingly, no later than  
15 October 21, 2011, plaintiff shall file proofs of service showing service on defendants, or the  
16 action will be dismissed.

17 The court also notes that plaintiff has recently filed three requests for a hearing.  
18 Those requests are DENIED. Assuming the case is not dismissed, the court will conduct  
19 no hearings until the pleadings are settled.

20  
21 **IT IS SO ORDERED.**

22 Dated: September 29, 2011



23 \_\_\_\_\_  
24 PHYLLIS J. HAMILTON  
25 United States District Judge  
26  
27  
28